



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/167127

PRELIMINARY RECITALS

Pursuant to a petition filed July 09, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 11, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was issued the proper FoodShare (FS) benefits between February 1, 2015 and July 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. The petitioner is a household size of 2.
2. Between February 1, 2015 and June 30, 2015 the petitioner received \$16 in monthly FS benefits.

3. During this time the petitioner's monthly gross income was \$1,965.80 consisting of \$1,431.90 in unemployment benefits and \$533.90 from child support.
4. During that time the petitioner paid \$805.98 in monthly rent. She was also responsible for all of her utilities.
5. On June 5, 2015 the petitioner reported to the agency that she no longer received unemployment benefits.
6. On June 8, 2015 the agency sent the petitioner notice that effective July 1, 2015 the petitioner's monthly FS benefits would increase from \$16 to \$357.00.
7. Between February 1, 2015 and June 30, 2015 the petitioner was over issued unemployment benefits, which she has not yet repaid to the Department of Workforce Development.
8. On July 9, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

The petitioner filed an appeal on July 9, 2015 to contest the FoodShare benefits she received from February 2015 through June 2015. In June the petitioner reported to the agency that her unemployment benefits had stopped. This increased her FS benefits effective July 1, 2015. Around that same time in June 2015 the petitioner reported to the agency that the Department of Workforce Development was demanding that she pay back approximately \$3,000 of her unemployment benefits. The petitioner asked the agency to issue replacement FS benefits for the period from February 1, 2015 through June 30, 2015 because she believed that they over budgeted her unemployment income, and that she was entitled to additional FS benefits during that time period.

The regulations and policies direct the agency to count all unearned income as income in the month it is received. *FoodShare Wisconsin Handbook (FSWH)*, § 4.3.4.1. In this case the agency correctly counted the unearned income from unemployment the month that the petitioner received it. There is no dispute that the petitioner received the money. Thus, the agency correctly counted the actual income the petitioner received during the time period in question.

With regard to underissuance of FS benefits, the FS Handbook directs the agency to restore under issued FS benefits only when the group did not cause the underissuance and the underissuance happened less than 12 months ago. *FSWH*, § 7.4.1.1. Here any underissuance would have been caused by the petitioner. At the hearing the petitioner explained that she had to reduce her class schedule from full time to part time, which caused the overissuance unemployment benefits. Implicit in this testimony is that she did not report to the Department of Workforce Development that she had reduced her class schedule causing her to receive additional unemployment benefits that she was not entitled to receive. Thus, even if these actions caused an underissuance of FS benefits, which I have concluded they did not, such an underissuance would not be restorable under the FS rules.

I further note that the petitioner has not repaid the unemployment overpayment. At the end of July the Department of Workforce Development sent the petitioner a notice stating they intended to issue a Warrant to place a lien on her real and personal property for a \$2,997.00 debt that had not been paid.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was issued the proper FoodShare (FS) benefits between February 1, 2015 and July 1, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 13th day of August, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 13, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability